

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1098**

Introduced by Mello, 5; Ashford, 20; Cook, 13; Haar, 21; Harms, 48;  
Lathrop, 12; McGill, 26; Nordquist, 7.

Read first time January 21, 2010

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to municipalities; to authorize creation of
- 2 sustainable energy financing districts; and to grant
- 3 powers and duties regarding such districts.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Legislature finds:

2           (1) That energy efficiency and the use of renewable  
3 energy are important for preserving the health and economic  
4 well-being of Nebraska's citizens. Using less energy decreases  
5 the cost-of-living and will keep the cost of public power low by  
6 delaying the need for additional power plants. By building the  
7 market for energy efficiency and renewable energy products, new  
8 jobs will be created for Nebraskans in the energy efficiency and  
9 renewable energy job sector;

10          (2) To further this goal, the state shall promote  
11 energy efficiency improvements and renewable energy improvements  
12 to residential and commercial property;

13          (3) The upfront costs for energy efficiency improvements  
14 and renewable energy improvements prohibit many property owners  
15 from making improvements. Therefor, it is necessary to authorize  
16 municipalities to implement an alternative financing method through  
17 the creation of sustainable energy financing districts; and

18          (4) That a public purpose will be served by providing  
19 municipalities with the authority to finance the installation of  
20 energy efficiency improvements and renewable energy improvements  
21 through the creation of sustainable energy financing districts,  
22 and that the implementation and financing of sustainable energy  
23 financing districts fulfill a public purpose.

24          Sec. 2. (1) The governing body of a municipality may  
25 create a special district to be known as a sustainable energy

1 financing district. The governing body of the municipality shall be  
2 the governing body for any district so created.

3 (2) A sustainable energy financing district shall be  
4 created by ordinance. The ordinance shall provide that the area of  
5 the district shall consist of that real property located within the  
6 municipality whose owners have agreed or agree to participate in  
7 the district. The area of the district may or may not be contiguous  
8 and may be modified.

9 (3) A sustainable energy financing district shall include  
10 only residential or commercial real property for which the owner  
11 has executed a contract or agreement consenting to the inclusion  
12 of such property within the district in return for a loan from the  
13 district and a cooperative endeavor agreement with the district.  
14 The consent of the owner may be given before or after the initial  
15 creation of the district.

16 (4) The purpose of the sustainable energy financing  
17 district is to encourage, accommodate, and provide a source  
18 of revenue and means for financing capital improvements for  
19 energy efficiency improvements, such as retrofitting and the  
20 installation of renewable energy improvements, such as fixtures  
21 for real property within the district, whether such real property  
22 is commercial or residential.

23 Sec. 3. (1) A municipality which creates a sustainable  
24 energy financing district may incur debt for the purpose of  
25 providing to such district sufficient funds to make the loans

1 provided for in section 4 of this act.

2 (2) The owner of residential or commercial real property  
3 within the district may request financing in the form of a  
4 loan from the district to cover the costs of energy efficiency  
5 improvements or renewable energy improvements that the owner  
6 contracts to make to the real property. Such financing shall  
7 include interest rates and administrative fees as determined by the  
8 district. The district shall accept or reject the request according  
9 to criteria established by the district and make such loan upon  
10 terms and conditions that shall be set forth in the ordinance or  
11 resolution, except that the term for repayment of a loan, together  
12 with interest rates and administrative fees, shall not exceed  
13 twenty years.

14 (3) If agreed by the district, the amount of the loan,  
15 including interest rates and administrative fees, shall be assessed  
16 against the real property upon which the improvements are placed  
17 and shall be collected in the same manner as is provided for real  
18 property taxes.

19 (4) The district may enter into any necessary agreement  
20 for assessing and collecting the assessment provided for in  
21 this section, including provisions for reimbursing the cost of  
22 assessment and collection.

23 (5) Upon failure of the property owner to pay the  
24 assessment within thirty days of receipt, the municipality may file  
25 a certified copy of the charges with the register of deeds, and,

1 when so filed and recorded, such filing shall operate as a lien  
2 in favor of the municipality and district. Such lien shall have  
3 the same priority as a property tax lien and may be enforced and  
4 collected by civil proceeding or enforced and collected as any  
5 other property tax lien.

6           Sec. 4. (1) A municipality and sustainable energy  
7 financing district shall have all of the rights and powers  
8 necessary to carry out and effectuate the purposes and provisions  
9 of sections 1 to 5 of this act, including, but not limited to:

10           (a) To provide financing to the owners of residential and  
11 commercial real property within the district as authorized for the  
12 purposes of such sections;

13           (b) To establish terms, conditions, procedures,  
14 requirements, and programs to effectuate the provisions of such  
15 sections;

16           (c) To make and execute contracts and other instruments  
17 necessary in the exercise of the powers and functions of the  
18 district under such sections, including contracts with persons,  
19 firms, corporations, and others;

20           (d) To borrow money and issue bonds or obligations, and  
21 to pay for such bonds from assessments against property levied  
22 pursuant to such sections;

23           (e) To pledge or assign any money, fees, charges, or  
24 other revenue and any proceeds derived by the district from the  
25 sale of bonds and other contracts or rights of the district;

1           (f) To apply and contract for assistance from the federal  
2 government or public or private sources, whether in the form of a  
3 grant, guarantee, loan, or otherwise, or to serve and act in such  
4 capacities when necessary or desirable to apply for and accept such  
5 grants, guarantees, subsidies, loans, or other assistance;

6           (g) To receive, administer, and comply with the  
7 conditions and requirements respecting any gift, grant, guarantee,  
8 subsidy, or donation of any property or money;

9           (h) To exercise any and all other powers necessary to  
10 accomplish the purposes of such sections.

11           (2) The powers and rights conferred by sections 1 to 5 of  
12 this act shall be deemed to provide an additional and alternative  
13 method for the doing of the things authorized thereby and shall  
14 be regarded as supplemental and additional to powers conferred by  
15 other general laws and shall not be regarded as in derogation of  
16 any powers now existing. Such sections shall be liberally construed  
17 for the accomplishment of their purposes.

18           Sec. 5. For purposes of sections 1 to 5 of this act:

19           (1) Energy efficiency improvement means an installation  
20 or modification that is designed to reduce energy consumption  
21 in residential or commercial buildings, and includes, but is not  
22 limited to, the following:

23           (a) Insulation in walls, roofs, floors, and foundations  
24 and in heating and cooling distribution systems;

25           (b) Storm windows and doors, multiglazed windows and

1 doors, heat-absorbing or heat-reflective glazed and coated window  
2 and door systems, additional glazing, reductions in glass area,  
3 and other window and door system modifications that reduce energy  
4 consumption;

5 (c) Automatic energy control systems;

6 (d) Heating, ventilating, or air conditioning and  
7 distribution system modification or replacements in buildings or  
8 central plants;

9 (e) Caulking and weatherstripping;

10 (f) Replacement or modification of lighting fixtures to  
11 increase the energy efficiency of the system without increasing  
12 the overall illumination of a residential or commercial building  
13 unless such increase in illumination is necessary to conform to the  
14 applicable building code for the proposed lighting system;

15 (g) Energy recovery systems;

16 (h) Daylighting systems; and

17 (i) Any other modification, installation, or remodeling  
18 authorized as a utility cost-savings measure; and

19 (2) Renewable energy improvement means any fixture,  
20 product, system, device, or interacting group of devices installed  
21 behind the meter of any residential or commercial building that  
22 produces energy from renewable resources, including, but not  
23 limited to, photovoltaic systems, solar thermal systems, small  
24 wind systems, biomass systems, or geothermal systems, as may be  
25 authorized, except that it shall not include a renewable energy

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1 improvement that interferes with a right held by a public utility.